

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
(Pecos Division)**

Energy Vault, Inc.,

*Plaintiff,*

v.

United Standard Electric LLC,

*Defendant.*

Civil Action No: 4:23-cv-00047

**DEFENDANT USE’S OBJECTIONS AND SUPPLEMENTAL ANSWERS TO ENERGY  
VAULT’S FIRST SET OF INTERROGATORIES**

Defendant United Standard Electric, LLC (“USE”), by counsel, respectfully submits  
  
these objections and supplemental answers to the first set of interrogatories served by Plaintiff  
  
Energy Vault.

**INTERROGATORY NO. 1:**

- 1. Identify each term of the Purchase Order You contend is not binding on the Transaction. For each term You identify, provide the logically and factually related information of (a) factual basis for your assertion for why the particular term is not binding, (b) the date of when You notified Energy Vault of your objection to the term, (c) the individual who made the objection on Your behalf, (d) whether the objection was made verbally or in writing, (e) identify by Bates label any document evidencing the objection.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for information already in the

possession of the Plaintiff. Overly broad and unduly burdensome.

**ANSWER:**

There are 2 Purchase orders with the same number, one dated 9/13/2022 and another with the same number, corrected after the fact, but with the same date in the document, but was saved in our records 11/17/2022, The first one did not contained page 2-6 with Energy Vault internal terms. The corrected 2nd was supposed to be corrected by a mistake made by Energy Vault in the pricing, Energy Vault added their own terms without prior discussion with USE in the last version.

All terms included in the last version of the PO000778 *see* USE/EV002198 are not binding, USE made clear our terms from the original offer named COT2201576 *see* USE/EV2185-2191 where clearly refers to USETC001.W34 USE/EV002205-2208 & USE/EV002212 where USE terms are clearly stated. All acknowledgements from USE refer to COT2201576 *see* USE/EV2185-2191. Customer has in their possession USETC001.W34 *see* USE/EV002205-2208 & USE/EV002212.

- Nancy
  - Energy Vault PO#PO000778 \_USE COT2201576R4 USE/EV002026
  - Purchase Order\_PO000778 USE/EV000774-779

**INTERROGATORY NO. 2:**

- 2. Identify the status of each Transaction Transformer at the time of Your delivery to Energy Vault. For each Transaction Transformer, provide the logically and factually related information of (a) whether You contend the Transaction Transformer is functional and operational; (b) whether you contend that the Transaction Transformer met the specifications and requirements set forth in the Purchase Order; (c) the factual basis for your contention, and (d) identify by Bates label all documents in support of Your assertion.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

- Bernardo
  - Re: United Standard Electric payments USE/EV000138-146
- Nancy
  - FW: [EXTERNAL]USE INVOICES USE/EV0000823-973
  - Proposed EV Letter USE/EV001082-1085
  - USE\_Correspondence\_-\_11012023 USE001529-1531

**INTERROGATORY NO. 3:**

**3. Provide the factual basis for Your contention that 38 out of 40 Transaction Performers “fully met the contract specifications and industry standards, were merchantable, and were fit for their intended use and purpose,” as stated in Your Counterclaim (Dkt. 14 ¶ 8). In providing this factual basis, please also provide the logically and factually related information of all documents—identified by Bates label—that support Your contention.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

- Bernardo
  - Re: United Standard Electric payments USE/EV000138-146
- David
  - RE\_USE\_Energy Vault - Daily Check-in (29) USE/EV001995-1998
  - RE\_USE\_Energy Vault - Daily Check-in (31) USE/EV002004-2008
- Nancy
  - FW: [EXTERNAL]USE INVOICES USE/EV0000823-973
  - Proposed EV Letter USE/EV0000823-973
  - RE PLEASE COMMENTAPPROVE USE/EV001277
  - RE USE Follow-up meeting USE/EV0001310
  - USE\_Correspondence\_-\_11012023 USE001529-1531

**INTERROGATORY NO. 4:**

**4. For each Transaction Transformer, identify all specifications that You contend apply to the transformer. For each specification You contend applies, identify by Bates label all documents supporting Your contention that the specification applies.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

- Bernardo
  - Re: United Standard Electric payments USE/EV000138-146
- David
  - RE\_ USE\_Energy Vault - Daily Check-in (29) USE/EV001995-1998
  - RE\_ USE\_Energy Vault - Daily Check-in (31) USE002004-2008
- Nancy
  - COT2201576R4 3MVA EV PADS LGE USE/EV000767 -773
  - Purchase Order\_PO000778 USE/EV000774-779
  - FW: [EXTERNAL]USE INVOICES USE/EV0000823-973
  - Proposed EV Letter USE/EV0000823-973
  - RE PLEASE COMMENTAPPROVE USE/EV001277
  - RE USE Follow-up meeting USE/EV0001310
  - USE\_Correspondence\_-\_11012023 USE/EV001529-1531

**INTERROGATORY NO. 5:**

- 5. For each Transaction Transformer, identify all performance standards, including but not limited to ANSI, NEMA, IEEE, and NETA standards and/or testing criteria, that You contend apply to the transformer. For each performance standard You contend applies, identify by Bates label all documents supporting Your contention that the performance standard applies.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

For all transformers in the transaction the standards that applies is ANSI/IEEE C57.12.34IEEE Standard Requirements for Pad-Mounted, Compartmental-Type, Self-Cooled, Three-Phase Distribution

Transformers, 10 MVA and Smaller; High-Voltage, 34.5kV Nominal System Voltage and Below;  
Low-Voltage, 15 kV Nominal System Voltage and Below

This standard and the standards referenced within are applicable for all transformers in the transaction referred to COT2201576 *see* USE/EV2185-2191.

- Nancy
  - COT2201576R4 3MVA EV PADS LGE.pdf USE/EV000767 -773
    - “USE’s transformers are designed, manufactured, and tested per applicable ANSI/IEEE and NEMA standards and are suitable for outdoor operation.
    - Standard Factory Tests per ANSI/IEEE”

**INTERROGATORY NO. 6:**

**6. If You contend that the Proposal and Purchase Order called for different specifications or standards for the Transaction Transformers, provide the factual basis for this contention. In providing the factual basis, provide the logically and factually related information of (a) identify the specification or standards under the Proposal and Purchase Order; (b) explain how and why these specifications and standards conflict; (c) whether You contend that the Transaction Transformers met either set of conflicting specifications or standards; and (d) identify by Bates label any document supporting this contention.**

**OBJECTIONS:**

Calls for legal analysis and legal conclusions. Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

- Nancy
  - Energy Vault PO#PO000778 \_ USE COT2201576R4 USE/EV000766

**INTERROGATORY NO. 7:**

**7. Explain the factual basis for Your contention that USE was prevented from having “a reasonable opportunity to inspect, repair or replace the two (2)**

**transformers that arguably were deficient or defective” as stated in Your Answer (Dkt. 14 at 23–24). In providing the factual basis, provide the logically and factually related information of identifying all documents that support Your contention by Bates label.**

**OBJECTIONS:**

Calls for contention discovery prior to the close of discovery and the final pre-trial conference.

**ANSWER:**

(Waiting for additional input from client)

**INTERROGATORY NO. 8:**

- 8. Identify the facilities by name and location for where each of the Transaction Transformers were manufactured. For each facility You identify, provide the logically and factually related information of (a) which Transaction Transformers were manufactured there; and (b) which portions and/or phases of the manufacturing process occurred at the facility.**

**OBJECTIONS:**

Calls for production of Confidential Business Information (“CBI”) in the absence of a protective order. Irrelevant. Overly burdensome. Not relevant to the subject matter of any claim or defense.

**ANSWER:**

(Waiting for additional input from client)

**INTERROGATORY NO. 9:**

- 9. Identify any other instances where a customer has complained that purchased transformers from USE that were defective or needed repairs**

from 2021 to present. For each instance You identify, provide the logically and factually related information of (a) the name of the customer; (b) a description of what the customer complained about, including the amount of money at issue as well as which products were allegedly defective or needed repairs; (c) whether You disputed the complaint; (d) if You disputed the complaint, the factual reason for why You disputed the complaint; (e) whether a lawsuit was filed; and (f) whether the issue was resolved and, if so, how.

**OBJECTIONS:**

Calls for production of CBI in the absence of a protective order. Irrelevant. Overly burdensome. Not relevant to the subject matter of any claim or defense. Seeks irrelevant and inadmissible evidence of prior bad acts or character evidence for impermissible collateral issue impeachment.

**ANSWER:**

(Waiting for additional input from client)

**INTERROGATORY NO. 10:**

**10. Describe in detail Your “Quality Assurance and Quality Control program,” pursuant to Section 23 of the Purchase Order. In providing this description, provide the logically and factually related information of the identification of documents showing testing, inspection, or other reports showing compliance with the program, identified by Bates label.**

**OBJECTIONS:**

Calls for production of CBI in the absence of a protective order.

**ANSWER:**

- Nancy
  - Purchase Order\_PO000778 USE/EV000774-779

(Waiting for additional input from client)

**INTERROGATORY NO. 11:**

**11. Describe in detail any work performed by subcontractors or non-USE personnel on the Transaction Transformers at any stage of the manufacturing or pre-delivery process. In providing this description, provide the logically and factually related information of the identification of all supporting documents by Bates label.**

**OBJECTIONS:**

Calls for production of CBI in the absence of a protective order. Irrelevant. Overly burdensome. Not relevant to the subject matter of any claim or defense.

**ANSWER:**

- Nancy
  - Unidades de 3010kva de Energy Vault USE/EV001510-1522

(Waiting for additional input from client)

**VERIFICATION OF JUAN ESCOBAR**

I, Juan Escobar swear, declare and affirm under oath and under penalties of perjury, pursuant to the laws of the United States of America, that the facts stated in the foregoing interrogatory answers are true and correct to the best of my knowledge, information and belief.

Signature /s/ Juan Escobar

Date: \_\_\_\_\_

Name: Juan Escobar

Respectfully Submitted This 5<sup>th</sup> Day of June, 2024:

UNITED STANDARD ELECTRIC, LLC

By: /s/ Denis Dennis  
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*Pro Hac Vice Planned*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5<sup>th</sup> day of June 2024, the foregoing Defendant United Standard Electric, LLC, Objections and Supplemental Answers to Plaintiff's First Set of Interrogatories was sent by first-class mail, properly addressed and postage prepaid, to:

**Ahmad, Zavitsanos & Mensing, PLLC**

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/s/ Denis Dennis

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